

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE
ELIMINATING VACANT BATTALION CHIEF POSITIONS;
ADDING FIRE DIVISION CHIEF POSITIONS; AMENDING THE
PAY PLAN; AND ELIMINATING THE STAND-BY PAY PRACTICE
FOR FIRE MANAGEMENT CLASSIFICATIONS**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE:

1. The City Council hereby approves the elimination of three (3) vacant Battalion Chief positions and the addition of three (3) Fire Division Chief positions.
2. The City Council also approves an amendment to the City of San Jose Pay Plan effective November 1, 2012 as follows:
 - a. Increase the pay range for Assistant Fire Chief (2333) from \$104,609.77 to \$163,065.82 to \$114,024.65 to \$177,741.74;
 - b. Increase the pay range for Deputy Fire Chief (2335) from \$97,260.32 to \$151,502.43 to \$106,013.75 to \$165,137.64;
 - c. Increase the top of the pay range for Fire Division Chief (2331) from \$124,074.94 to \$153,852.93; and
 - d. Increase the pay range for Assistant Police Chief (2225) from \$104,609.77 to \$163,065.82 to \$117,685.93 to \$183,448.95.
3. The City Council also approves the elimination of the stand-by pay practice for the Assistant Fire Chief, Deputy Fire Chief, and Fire Division Chief classifications.
4. The Replacement Memorandum to the Mayor and City Council from the City Manager dated October 18, 2012, is attached hereto as Attachment A, and incorporated in this Resolution.

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ADOPTED this _____ day of _____, 2012, by the following vote:

AYES:

NOES:

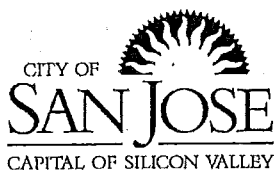
ABSENT:

DISQUALIFIED:

CHUCK REED
Mayor

ATTEST:

DENNIS D. HAWKINS, CMC
City Clerk



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Debra Figone

SUBJECT: SEE BELOW

DATE: October 18, 2012

SUBJECT: AMENDMENTS TO THE STAFFING CONFIGURATION FOR FIRE
MANAGEMENT CLASSIFICATIONS, CITY PAY PLAN AND
MEMBERSHIP IN THE FEDERATED RETIREMENT SYSTEM FOR FIRE
AND POLICE MANAGEMENT CLASSIFICATIONS, AND RELATED
APPROPRIATION ADJUSTMENTS

REPLACEMENT

REASON FOR REPLACEMENT

The recommended action part (a) reflects a revision from the original recommendation agendized for the October 16, 2012 City Council meeting.

RECOMMENDATION

It is recommended that the City Council:

- (a) Authorize the elimination of three vacant Fire Captain positions and the addition of three Fire Division Chief positions.
- (b) Adopt a Resolution to:
 - (1) Eliminate the stand-by pay practice for the Assistant Fire Chief and Deputy Fire Chief classifications and the previous stand-by pay practice for the Fire Division Chief classification.
 - (2) Amend the City of San Jose City Pay Plan effective November 1, 2012 to make the following pay range adjustments:
 - (a) Increase the pay range for Assistant Fire Chief from \$104,609.77 to 163,065.82 to \$114,024.65 to \$177,741.74;
 - (b) Increase the pay range for Deputy Fire Chief from \$97,260.32 to 151,502.43 to \$106,013.75 to \$165,137.64;
 - (c) Increase the top range for Fire Division Chief from \$124,074.94 to \$153,852.93; and,
 - (d) Increase the pay range for Assistant Police Chief from \$104,609.77 to 163,065.82 to \$117,685.93 to 183,448.95.

(c) Adopt the following 2012-2013 appropriation ordinance amendments in the General Fund:

- (1) Increase in the amount of \$66,000 in the Fire Department Personal Services appropriation; and
- (2) Decrease in the amount of \$66,000 in the Fire Department Non-Personal/Equipment appropriation.

(d) Direct the City Attorney to evaluate and prepare an amendment to Part 2 of Chapter 3.36 of Title 3 of the San Jose Municipal Code to exclude from membership in the Police and Fire Department Retirement Plan an Assistant Fire Chief, Deputy Fire Chief, Fire Division Chief, or Assistant Police Chief who has no prior service credit applicable to that plan.

OUTCOME

Approval of these recommendations will improve departmental operations by establishing a sustainable management structure and span-of-control for the Bureau of Field Operations and adjusting the pay range for certain Fire Department Management classifications commensurate with reporting relationships, responsibilities, and performance expectations. The Assistant Police Chief recommendation will similarly adjust the compensation range for this classification consistent with prior Council direction.

BACKGROUND

Currently, there are three Deputy Fire Chief positions in the Fire Department overseeing three sections: the Bureau of Field Operations, the Bureau of Fire Prevention, and the Bureau of Emergency Medical Service and Training. The Deputy Fire Chief position overseeing the Bureau of Field Operations directs the work of 18 Battalion Chiefs (five Battalion Chiefs per each of three shifts as well as three administrative Battalion Chiefs). This unusually high span of control has made it difficult for the Fire Department to effectively manage the Bureau of Field Operations staff of 613 sworn positions or 95% of all sworn Fire positions in the Department. Due to the high management demand on one Deputy Fire Chief, operational decision making has been impacted which has resulted in inconsistencies in the interpretation and execution of departmental policies, guidelines, and procedures across battalions and shifts; delayed responses to battalion personnel; and inconsistent implementation of new initiatives among sworn personnel. This high management demand has been exacerbated due to the significant number of recently promoted Battalion Chiefs (14 out of 21 Battalion Chief positions have been filled since March 2011), who require additional guidance in their new job responsibilities.

Currently, compensation compaction exists between Battalion Chief and Deputy Fire Chief positions, which creates a disincentive to employees for advancement. Additionally, the rate of pay for Assistant Fire Chief and Deputy Fire Chief is internally inconsistent relative to their level and scope of authority, performance expectations of the positions, and responsibilities within the

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Department and City organization. The current base pay differential between a Battalion Chief and Deputy Fire Chief at the top pay step is approximately seven percent. However, per the existing Memorandum of Agreement between the City and the International Association of Firefighters (IAFF), Local 230, Battalion Chief positions are eligible to earn overtime, which creates a salary compaction issue. Within a fiscal year, any Battalion Chief who works six 24-hour overtime shifts will be paid about the same salary as a Deputy Fire Chief.

Standby-in-lieu was established in 1987 to compensate Deputy Chiefs for standby duty at a rate of two hours per weekday and three hours per weekend day in the form of compensatory time off. This is pay for being available to respond to emergencies on weekends and during non-business hours. Through Manager's Budget Addendum #42 (MBA 42) in June 2012, the City Council provided the City Manager authority to continue to provide stand-by pay to Deputy Chiefs and to provide this to the Assistant Fire Chief. MBA 42 also authorized the City Manager to roll special pays into base pay if necessary, but did not amend the City Pay Plan.

On June 15, 2010, the City Council approved Ordinance No. 28749 amending Part 2 of Chapter 3.36 of Title 3 of the San José Municipal Code. This added a Section 3.36.205 to exclude from membership in the Police and Fire Retirement Plan a Fire Chief or Police Chief who has no prior service credit in that plan. Aside from this exclusion, Police and Fire retirement provisions require an individual to have ten (10) years of service in the system to vest, and twenty (20) years must have elapsed from time of entry in order to retire. This is not practical and a barrier to opening management positions to qualified candidates outside the City of San José system.

ANALYSIS

In order to establish a sustainable management structure for the Bureau of Field Operations, it is recommended to update the job specification and fill three Fire Division Chief positions that will report to the Deputy Fire Chief, offset by the elimination of the three relief Fire Captain positions. The Fire Division Chief classification currently exists and is a Unit 99 position that is in between a Battalion Chief and Deputy Chief. The Fire Department in February 2012 presented its year-end 2010-2011 report on absences and vacancies (and their impact on overtime and relief staffing) to the Public Safety, Finance and Strategic Support Committee. In this report, the Department's analysis, utilizing a five-year average baseline methodology, pointed to the possibility of reducing the number of relief Fire Captains. In addition, if fully implemented, the Fire Department's Squad Pilot Program established in May 2012, deploys two-person companies (each squad company is staffed with one Fire Engineer and one Fire Firefighter/Paramedic). This change in staffing configuration would reduce the total number of duty Fire Captain positions. Although no action is proposed on staffing changes as a result of the Squad Car Pilot Program, at this time, the reduction of three relief Fire Captain positions is not expected to result in changes in service levels nor result in increased costs. The establishment of the three Fire Division Chiefs would provide field oversight to a shift and could also manage a major operational program for the Department. Potential promotion to Fire Division Chief position from the Battalion Chief rank could result in additional relief staffing capacity at the Fire Battalion Chief level, which would reduce overtime for Battalion Chief level

minimum staffing. Staff analysis identifies potential savings of \$120,000 in overtime for 2012-2013 that could be used to offset Fire Department costs as identified in this memorandum.

Each Fire Division Chief will be responsible for supervising six Battalion Chiefs (1:6 ratio), providing oversight to the entire City Emergency Deployment System and serving as command officer on duty outside of normal business hours. This will effectively reduce the span of control for the Deputy Chief of the Bureau of Field Operations from 1:18 to 1:3, and allow the Deputy Chief to advance strategic priorities for the Bureau, such as performance management, cost containment, and proactive policy development rather than simply addressing day-to-day operations. Filling Fire Division Chief positions will provide command officers who are responsible for managing city-wide resource coverage, and coordination between battalions to maximize the utilization of those resources. The exposure to these assigned duties and responsibilities will prepare Fire Division Chiefs for future advancement, increasing the potential for a more successful transition and succession to the positions of Deputy Fire Chief. With the addition of the three Fire Division Chief positions, the Department will reduce the span of control to a manageable level and facilitate communication, leadership development, mentoring and support for the newly promoted Battalion Chiefs across all shifts. Operationally, this organizational change will allow the Department to improve decision-making through the consistent application of departmental policies, guidelines, and procedures across battalions and shifts; improve internal communications; be more responsive to changes in the service delivery environment; ensure an enhanced focus on work place safety; and provide an appropriate level of training of all sworn staff.

Consistent with the City's pay structure, as well as the performance expectations of the Fire Department's management classifications, the following adjustments to the pay ranges of the Fire Division Chief, Deputy Fire Chief, and the Assistant Fire Chief classifications are recommended as outlined in the table below. Although no pay range adjustments are recommended for the Fire Chief and Battalion Chief classifications, these pay ranges are displayed in the table below for comparison.

Classification	Current Pay Range	Recommended Pay Range	Recommended Percent Increase	Top of Range Separation from Direct Reports
Fire Chief	\$127,417.01 – 199,153.99	No change	N/A	12.05%
Assistant Fire Chief	\$104,609.77 - \$163,065.82	\$114,024.65 - \$177,741.74	9%*	7.63%
Deputy Fire Chief	\$97,260.32 - \$151,502.43	\$106,013.75 - \$165,137.64	9%*	7.33%
Fire Division Chief	\$101,835.27 - \$124,074.94	\$101,835.27 - \$153,852.93	24%**	8.47%
Battalion Chief	\$116,667.20 - \$141,835.20	No change	N/A	N/A

* Actual increase would be reduced due to elimination of Standby-in-lieu compensation.

** Recommended adjustment of the top of range only.

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Both the Deputy Fire Chief and Assistant Fire Chief pay ranges are recommended to increase 9% to allow for the inclusion of the Fire Division Chief positions and to establish a functional salary hierarchy and avoid compaction issues within the current Fire Chief and Battalion Chief ranges. For the Fire Division Chief, the top pay range is recommended to be increased by 24% due to the fact that the pay range has not been adjusted for nine years since the positions last existed in 2003 (Three Fire Division Chief positions were eliminated as part of the balancing plan and approval of the 2003-2004 Adopted Budget). Further, by increasing only the upper range of the Fire Division Chief classification, the lower end of the pay range will be aligned with the lower ranges of the Deputy Fire Chief and Assistant Fire Chief classifications. With these proposed pay range adjustments, the pay differential between the Battalion Chief and the Assistant Fire Chief classifications will be between 7.33% and 8.47% of top step as shown in the table.

It should be noted that the Fire Division Chief, Deputy Fire Chief, and Assistant Fire Chief positions are unrepresented management classifications and do not receive overtime. These positions are eligible to receive the following special pays: Holiday-in-Lieu of 5.623% of base salary; Emergency Medical Technician pay (\$102 per pay period), if certified; Education Incentive Pay (\$35 per pay period), if the employee has earned an Associates Degree or higher from an accredited college or university; and an annual Uniform Allowance of \$495. The recommended actions also eliminate the practice of providing stand-by pay for the Assistant Fire Chief and Deputy Fire Chief classifications and the previous stand-by pay practice for the Fire Division Chief classification. Also, per prior City Council direction, the City will continue to pursue elimination of overtime for the Battalion Chief classification as part of negotiations with IAFF, Local 230.

As a part of these actions, the classification specification for Fire Division Chief will be updated to reflect the current vision and expectations of the duties and responsibilities of this high level management position. In addition, the minimum qualifications will be revised to ensure that external and internal applicants are eligible to apply. Although the position does not require a college degree, the classification will state that a Bachelors Degree in business administration, management sciences or related fields is highly desirable, as well as advanced coursework or training in leadership, management and/or organizational development.

As noted under Background, through MBA 42 the City Council authorized the City Manager to continue special pays to Police and Fire employees in Unit 99, as well as roll these special pays into base pay if necessary. In the case of the Assistant Police Chief classification, applicable premium pays include, among others, POST pay and Anti-Terrorism Training (ATT) pay. POST Pay is an educational incentive pay awarded to each person who has either an Intermediate Certificate or an Advanced Certificate given by the Commission on Peace Officer Standards and Training of the State of California. Employees are eligible for a 5% premium pay for an Intermediate Certificate or a 7.5% premium pay for an Advanced Certificate. ATT Pay is a 5% premium pay for employees who complete the annual training offered by the Police Department in Police anti-terrorist tactics. For employees represented by the SJPOA, this was rolled into base pay in 2009. The recommended salary range adjustment reflects the rolling of POST and ATT into base pay.

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Finally, the recommended actions would facilitate the recruitment of external candidates for the positions of Assistant Fire Chief, Deputy Fire Chief, and Fire Division Chief, as well as Assistant Police Chief. Current vesting rules of the Police and Fire retirement create a disincentive for candidates that are not coming directly from a reciprocal agency to apply for or accept employment with the City of San Jose. Police and Fire retirement provisions require an individual to have ten (10) years of service in the system to vest, and twenty (20) years must have elapsed from time of entry in order to retire. The proposed change would allow an individual who does not have prior service credit with the City of San Jose retirement plan, or applicable to the plan through reciprocity, to enter the Federated retirement plan, which has a five (5) year vesting requirement. Individuals who enter the Federated retirement plan would be subject to the same vesting rules, contribution rates and benefits as any other Federated employee.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, this memorandum will be posted on the City's website for the October 16, 2012 City Council meeting.

COORDINATION

This action has been coordinated with the City Attorney's Office.

COST SUMMARY/IMPLICATIONS

The addition of three Fire Division Chief positions is recommended to be offset with the elimination of three vacant relief Fire Captain positions. On an annualized basis, the additional cost of these position changes in the amount of \$324,000 will be offset with about \$156,000 in overtime for minimum staffing (increase in relief Battalion Chief positions will reduce overtime required to cover absences at Battalion Chief rank) and approximately \$91,000 in stand-by pay elimination. The remaining increase in personal services costs in the amount of \$76,000 will be offset by a reduction in the Fire Department non-personal/equipment appropriation with no impact on service delivery

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expected. For 2012-2013, with an October 28, 2012 effective date, a personal services cost increase of \$248,000 is recommended to be offset by a reduction in overtime for minimum staffing of \$120,000, the elimination of \$62,000 in stand-by pay, and \$66,000 in non-personal/equipment savings. If the City Council approves this recommendation, the Fire Department 2013-2014 Base Budget will be adjusted accordingly with no impact to the General Fund.

CEQA

Not a project, File No. PP10-068(b), Municipal Code, Title 3 and File No. PP10-067 (b), Appropriation Ordinance.

A handwritten signature in black ink, appearing to read 'Debra Figone', with a long, sweeping horizontal line extending to the right.

DEBRA FIGONE
City Manager